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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/004,982	12/03/2001	Marshall R. Millikan	10051	9219

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EXAMINER

HARLE, JENNIFER I

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 04/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/004,982

Applicant(s)

MILLIKAN, MARSHALL R.

Examiner

Jennifer I. Harle

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Claims 1-16 are pending. Claims 1-16 are rejected.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crabtree, et al. (6,295,367 B1) in view of Cataline, et al. (US 2002/0116331 A1).

Crabtree discloses a method and system of operating a service device such as a banking machine or self-service check out (cols. 1-2 and 37-38) comprising:

Beginning a transaction on the automated service device in connection with a current user (cols. 37-38 – the tracing information is useful in determining the interaction of a person with a banking machine, a help desk, particular merchant display, etc. – detecting an occurrence or non-occurrence of a transaction between an object in the scene);

Obtaining data regarding a queue of potential users of the automated service device (cols. 37-38; col. 39 – tracking information is useful in determining when a queue (line) of objects is formed in the scene, i.e. a line of customers in a retail establishment; may also be used to measure the amount of time individuals spend in observation of an area of interest, such as a promotional display, an information kiosk, ATM machine, etc.);

Determining whether to provide an optional communication to the current user of the automated service device based on the obtained queue data (col. 2, cols. 37-38, and col. 39 –

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desirable to monitor behavior of consumers in various locations of a retail establishment in order to provide information concerning the sequence of events and decisions that a consumer makes because it is useful in determining adjusting location and features of services provided in a bank, changing merchandising strategies and display arrangements, etc., tracking information is useful in determining when a queue (line) of objects is formed in the scene, i.e. a line of customers in a retail establishment; may also be used to measure the amount of time individuals spend in observation of an area of interest, such as a promotional display, an information kiosk, ATM machine, etc. – total time that a track of an object spend in that particular area of interest of the scene is accumulated to determine dwell time).

Crabtree does not specifically disclose that optional communications are provided based upon the queue date. Cataline discloses that ATMs and standalone other client devices may be optimized based upon a payment system that is design to reduce the process time, decrease user confusion, reduce costs to the host financial institution, utilized an integrated mediation engine to increase flexibility to the host as well as the institution and take into account that rules and criteria evolve over time to reflect refinements to the transaction model and other evolving criteria, specifically that clients may be able to pay bills and transfer funds (optional communications) when and where they want , in a selectable, integrated and optimized manner (determined by the system) based on multiple variable (Abstract; Figs. 1, 2 and 4 (optional communications are stored in the data storage and prepared in conjunction with the processor and network for passage to the ATM/standalone client other devices); [0002]-0004], [0013]-[0014], [0020]-[0028], [0030], [0035]-[0040], [0042]-[0046]}. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to have included the

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optional communications of Cataline in Crabtree because of the specific reasons set forth in Crabtree, i.e. the desirability to provide monitor behavior of consumers in order so that adjustments can be made to the location and features of the ATMs and thus enhance customer service and satisfaction by decreasing the amount of time they have to wait in line and to decrease costs to consumers and the institutions, See, e.g. Patent 6,173,209, col. 1.

As per claims 2-4, Crabtree discloses obtaining the queue length, number of potential users of the automated service device and comparing the obtained queue data against a queue threshold (cols. 5-39).

As per claims 5 and 6, neither Crabtree nor Cataline disclose providing the optional communication when the queue threshold has not been met or in the alternative not providing the optional communication if the queue threshold has been met or updating the data while a user is making a transaction. However, the motivation to do so is clearly taught by Crabtree and the desire of customers not to have to wait in line as previously set forth in the earlier rejection and as is well known in the retail art queue lengths adjust as people come and go. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to update the data from the queueing mechanism and to have utilized the queue threshold of Crabtree to determine whether or not to employ an optional communication in Crabtree in the method of Crabtree because it would have further enhanced the benefits set forth above, i.e. provide information concerning the sequence of events and decisions that a consumer makes because it is useful in determining adjusting location and features of services provided in a bank, changing merchandising strategies and display arrangements, etc., tracking information is useful in determining when a queue (line) of objects is formed in the scene, i.e. a line of customers in a

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retail establishment; may also be used to measure the amount of time individuals spend in observation of an area of interest, such as a promotional display, an information kiosk, ATM machine and the desirability to provide monitor behavior of consumers in order so that adjustments can be made to the location and features of the ATMs and thus enhance customer service and satisfaction by decreasing the amount of time they have to wait in line and to decrease costs to consumers and the institutions.

As per claims 7-16, Crabtree discloses and automated service system that comprises a processor, queue detector in communication with said processor, display and memory in communication with said processor. However, Crabtree discloses the deficiencies set forth above. It would have been obvious to have the memory and processor utilize Cataline's optional communications for the reasons set forth above. System claims 8-12 are rejected for the same reasons set forth above.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Laval, et al (6,173,209 B1) discloses a method and system for managing attraction admission, including customers disinclination to stand in line and the necessity to do something about it.

Crabtree, et al. (6,236,736 B1) discloses a method and apparatus for detecting movement patterns at a self-service check out terminal.

Boises, et al. (6,329,919 B1) discloses a method and system for providing reservations for restroom use, which has notification features and optional messages.

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Huang, et al. (5,953,055) discloses a system and method for detecting and analyzing a queue, including number of people, length, number of potential users, effectively a queue detector in conjunction with an ATM/kiosk.

James M. Rehg, et al., Integrated Task and Data parallel Support for Dynamic Applications, IEEE, 1999, pp. 1-23. discloses Cambridge Research Laboratory's Smart Kiosk.

In accordance with the USPTO's goals of customer service, compact prosecution, and reduction of cycle time, and because "the continual, chief complaint of inventors and their lawyers: that patent examiners are abysmal communicators, both orally and in writing,"¹ the Examiner has made every effort to clarify his position regarding claim interpretation and any rejections or objections in this application. Furthermore, the Examiner has provided Applicant(s) with notice—for due process purposes—of his position regarding his factual determinations and legal conclusions. If Applicant(s) disagree with *any* factual determination or legal conclusion made by the Examiner in this Office Action whether expressly stated or implied,² the Examiner respectfully requests Applicant(s) *in their next response* to expressly traverse the Examiner's position and provide appropriate arguments in support thereof. Failure by Applicant(s) *in their next response* to traverse the Examiner's positions and provide appropriate arguments in support thereof will be considered an admission by Applicant(s) of the factual determinations and legal conclusion not expressly traversed.³ By addressing these issues now, matters where the Examiner and Applicant(s) agree can be eliminated allowing the

¹ Sabra Chartrand, *A Bid to Overcome Patent Backlogs*, 152 N.Y. Times C2 (Sept. 23, 2002).

² E.g., if the Examiner rejected a claim under §103 with two references, although not directly stated, it is the Examiner's implied position that the references are analogous art.

³ See also MPEP §714.02, 37 CFR §1.111(b), and 37 CFR §1.104(c)(3).


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Examiner and Applicant(s) to focus on areas of disagreement (if any) with the goal towards allowance in the shortest possible time.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer I. Harle whose telephone number is 703.306.2906. The examiner can normally be reached on Monday through Thursday, 6:30 am to 5:00 pm,.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on 703.308.5183. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jennifer Ione Harle
April 4, 2004